

Agricultural Marketing Service, USDA

§987.147

weight of such dates when they are inspected and certified. However, if such dates are subsequently processed and packed within the area of production, the withholding obligation shall be adjusted to reflect any increase in weight.

(d) *Dates for deferment of withholding.* Any handler may defer his certification and withholding or disposition of restricted dates by pledging a comparable volume of graded or field-run dates as a surety that he will meet his withholding obligation at a later date. Such deferment shall not be effective until: (1) The handler files with the Committee a CDAC Form No. 12 to set aside graded dates or CDAC Form No. 13 to set aside field-run dates; and (2) the pledged dates are set aside as a lot and identified by the handler as "Restricted" and as "Graded" or "Field-Run", as appropriate, and as to the number of containers, the date of set-aside and whether or not the dates have been inspected. If the handler sets aside field-run dates or disposes of field-run dates in outlets prescribed in or pursuant to §987.56 to obtain withholding credit for the sound date portion in the lot, the field-run dates shall meet the requirements prescribed in paragraph (f) of this section for eligible field-run dates, as determined by the inspection service.

(e) *Identification of restricted dates.* Any lot of restricted dates not immediately disposed of through exportation to countries approved by the Committee or directed to approved product outlets shall be stored as a lot separate from all other dates and in a specified location with a USDA inspection service tag marked "Restricted".

(f) *Field-run dates.* Field-run dates set aside for the purpose of deferring or meeting any part or all of a withholding obligation shall consist of at least 70 percent, by weight, of sound dates but may contain 10 percent, by weight, of cull dates of which not more than 5 percent may be hidden culls—i.e., dates with internal defects including souring, mold, fermentation, insect infestation, or foreign material.

(g) *Substitution.* Any handler may, under the direction and supervision of the Committee or the inspection service, substitute for any quantity of re-

stricted dates held by him a like quantity of dates of the same variety and of the same or more recent year's production which have been certified and identified as meeting the requirements for restricted dates.

[43 FR 28437, June 30, 1978]

SURPLUS

§987.147 Surplus.

(a) *General.* Surplus dates delivered to the Committee pursuant to §987.47 shall be pooled for sale to livestock feeders, distillers, or manufacturers of inedible products: *Provided*, That if any portion of the deliveries differs sufficiently to require separate handling, and earn a different average return, such portion shall be handled as a separate pool. The income from sale of surplus, after deduction of committee expenses, shall be paid to the respective equity holders in the pool or pools, or to their assignees, on the basis of the weight of dates each delivered.

(b) *Delivery.* The Committee may refuse delivery of any surplus dates which it determines are excessively soured, fermented, or adulterated by palm debris, rocks, paper, wood, plastic liners, or other foreign material. If the Committee refuses delivery, the deliverer shall be permitted to clean such dates sufficiently to make them acceptable to the Committee. The weight of each accepted delivery shall be that determined by a public weightmaster or, in the absence of such weight, that determined by the Committee on the basis of the number and size of the containers used in the delivery. Upon delivery of surplus dates to the Committee, the deliverer, or a designee of the Committee shall execute CDAC Form SP-1, Delivery Manifest, showing:

- (1) The person to receive payment of the net proceeds for the surplus,
- (2) The date and place of loading,
- (3) If field surplus, the location and owner of the garden,
- (4) The type and number of containers loaded or dumped,
- (5) The net weight of the load, and
- (6) If the delivery is directly to a buyer's truck, the driver, truck and buyer.

QUALIFICATION TO REGULATION

§ 987.151 Interhandler transfers.

When any handler transfers dates, other than product dates, to another handler, the selling handler shall promptly notify the Committee by filing with it a completed CDAC Form No. 1 and shall show the name and address of the transferring or selling handler and of the receiving or buying handler, the variety and processed category or classification of the dates, the lot number and inspection certificate number on any lot of packed and certified dates, the number and type of containers, the net weight of the transferred dates, and if applicable, the transferring handler's statement on assuming the withholding and assessment obligation. A transfer of products dates between handlers shall be reported as a disposition by the selling handler filing with the Committee a completed CDAC Form No. 8.

[37 FR 23325, Nov. 2, 1972, as amended at 43 FR 28438, June 30, 1978]

§ 987.152 Exemption from regulations.

(a) *Producer exemption.* The Committee may permit any producer to sell dates from such producer's own production free of the requirements of §§ 987.41, 987.45, 987.48, and 987.72 when sold directly to consumers through a roadside stand or date shop owned or operated by the producer within 25 miles of the city limits of Indio, California, through shipments by parcel post or express, or by certified producers at certified farmers' markets, as these terms are defined by the State of California. Permission to so sell dates shall be granted only upon the producer filing with the Committee a completed CDAC Form No. 9 wherein the producer describes how the producer plans to sell such dates and agrees to sell only dates of DAC date quality of the producer's own production in direct sales; and to report such sales to the Committee. If the producer fails to comply with this agreement, the Committee may revoke any or all exemptions granted the producer.

(b) *Handler exemptions*—(1) *Specialty sales.* The Committee may permit any handler to sell to health food stores or health food outlets, dates which at

least meet the requirements for FP dates. It may permit any handler to sell to a candy manufacturer hand-pitted dates which meet the grade requirements for DAC dates except for size, or damage due to cutting and pitting. Also, it may permit any handler to sell hand-layered dates in tin, wood, plastic, or other type of container exempt from §§ 987.41(a) and 987.48, or to make shipments by common carrier of up to 150 pounds to any one purchaser in any one day exempt from the provisions of § 987.41(a): *Provided*, That the hand-layered dates or the shipment to a single purchaser in any 1 day have been packed from dates certified as meeting the grade requirements for DAC dates and have not been commingled with other dates. Permission to use these exemptions shall be granted only upon the handler filing with the Committee its CDAC Form No. 10 wherein he describes how he plans to sell, and agrees to sell only specific dates and to report such sales.

(2) *Donations.* The Committee may permit any handler to donate marketable dates other than DAC dates to needy persons, prisoners, or Indians on reservations. Before such donation is made, such handler shall file a request for donation with the Committee detailing the quantity and grade of dates involved and the name and address of the intended donee. The donation may be subject to Committee surveillance, verification by written documentation of receipt by the donee, and any other safeguards necessary to assure consumption in these outlets.

[37 FR 23325, Nov. 2, 1972, as amended at 43 FR 28438, June 30, 1978; 53 FR 35994, Sept. 16, 1988; 57 FR 39112, Aug. 28, 1992]

§ 987.157 Approved date product manufacturers.

Any person, including date handlers, with facilities for converting dates into products may apply to the committee, by filing CDAC Form No. 3, for listing as an approved date product manufacturer.

(a) The applicant shall indicate on such form: The products he/she intends to make; the quantity of dates he/she may use; the location of his/her facilities; and agree that all dates obtained for manufacturing into products shall